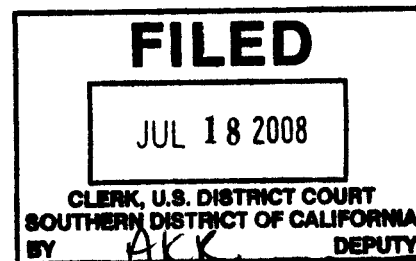


JOHN C. ELLIS, JR.  
 FEDERAL DEFENDERS OF SAN DIEGO, INC.  
 225 BROADWAY, STE. 900  
 SAN DIEGO, CA 92101-5008  
 Telephone: (619) 234-8467  
 \_\_\_Retained \_\_\_X Appointed

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA



PRESIDING JUDGE LARRY A. BURNS

COURT REPORTER EVA OEMICK

UNITED STATES OF AMERICA,

CRIMINAL NO. 08cr1261-LAB

(Appellant/Appellee) Plaintiff,

v.

NOTICE OF APPEAL

MARTIN OROSCO-IBARRA,

(Appellant/Appellee) Defendant.

Notice is hereby given that **MARTIN OROSCO-IBARRA**, defendant above-named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the (check one)

( ) Final Judgement (FED. R. Crim. P. 32(d))

(X) Sentence Only (18 U.S.C. § 3742) Sentence Imposed 24 months imprisonment; one year supervised release; \$100.00 fine; \$100 special assessment

( ) Order (describe) \_\_\_\_\_

entered in this proceeding on the 7TH day of JULY 2008.

If government appeal: Was the filing of this appeal approved in accordance with 18 U.S.C. § 3742(b)(4)? YES x NO

DATED: July 18, 2008

SIGNATURE\*

TRANSCRIPTS REQUIRED\*\* X YES \_\_\_ NO Date Ordered/to be Ordered July 18, 2008

DATE (X) INDICTMENT ( ) INFORMATION FILED April 22, 2008

BAIL STATUS CUSTODY

Will there be a request to expedite the appeal and set a schedule faster than that normally set? YES x NO (Note: This does not alleviate requirement of filing a motion to expedite which must be done in accordance with FRAP 27).

\*Pursuant to Fed. R. Crim. P. 32(d), the defendant may request the clerk prepare and file the Notice of Appeal.

\*\*If transcript required, transcript order form (CA9-036) must be completed and court reporter contacted to make arrangements for transcription.

AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 1

**FILED**

08 JUL 10 AM 8:17

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

MARTIN OROSCO-IBARRA

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

DEPUTY

Case Number: 08CR1261-LAB

JOHN ELLIS, FEDERAL DEFENDERS, INC.

Defendant's Attorney

REGISTRATION NO. 58400097

☐

THE DEFENDANT:

☒

pleaded guilty to count(s)

ONE OF THE SUPERSEDING INFORMATION.

☐

was found guilty on count(s)

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
8 USC 1325	ILLEGAL ENTRY (Felony)	SI

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐

The defendant has been found not guilty on count(s)

☒

Count(s) Underlying indictment

is ☒ are ☐ dismissed on the motion of the United States.

☒

Assessment: \$100.00

☒

Fine \$100.00

☐

Property forfeited pursuant to order filed \_\_\_\_\_, included herein.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

JULY 7, 2008

Date of Imposition of Sentence

*Larry A. Burns*

HON. LARRY ALAN BURNS  
UNITED STATES DISTRICT JUDGE

08CR1261-LAB

AO 245B (Rev. 9/00) Judgment in Criminal Case  
Sheet 2 — Imprisonment

Judgment — Page 2 of 5

DEFENDANT: MARTIN OROSCO-IBARRA  
CASE NUMBER: 08CR1261-LAB

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of  
24 MONTHS

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

08CR1261-LAB

AO 245D (Rev. 12/03) Judgment in a Criminal Case for Revocations  
Sheet 3 — Supervised Release

Judgment—Page 3 of 5

DEFENDANT: MARTIN OROSCO-IBARRA  
CASE NUMBER: 08CR1261-LAB

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :  
ONE YEAR

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

*For offenses committed on or after September 13, 1994:*

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer pursuant to 18 USC 3583(d).
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

08CR1261-LAB

AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 4 — Special Conditions

Judgment—Page 4 of 5

DEFENDANT: MARTIN OROSCO-IBARRA  
CASE NUMBER: 08CR1261-LAB

### SPECIAL CONDITIONS OF SUPERVISION

- ☐ Submit to a search of person, property, residence, abode or vehicle, at a reasonable time and in a reasonable manner, by the probation officer.
- ☐ If deported, excluded, or allowed to voluntarily return to country of origin, not reenter the United States illegally and report to the probation officer with 24 hours of any reentry to the United States; supervision waived upon deportation, exclusion or voluntary departure.
- ☐ Not transport, harbor, or assist undocumented aliens.
- ☐ Not associate with undocumented aliens or alien smugglers.
- ☒ Not reenter the United States illegally.
- ☐ Not enter the Republic of Mexico without written permission of the Court or probation officer.
- ☐ Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- ☐ Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- ☐ Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- ☐ Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The Court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.
- ☐ Take no medication containing a controlled substance without valid medical prescription, and provide proof of prescription to the probation officer, if directed.
- ☐ Participate in a mental health treatment program as directed by the probation office.
- ☐ Provide complete disclosure of personal and business financial records to the probation officer as requested.
- ☐ Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.
- ☐ Seek and maintain full time employment and/or schooling or a combination of both.
- ☐ Resolve all outstanding warrants within \_\_\_\_\_ days.
- ☐ Complete \_\_\_\_\_ hours of community service in a program approved by the probation officer within \_\_\_\_\_
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of \_\_\_\_\_
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the Bureau of Prisons for a period of \_\_\_\_\_ commencing upon release from imprisonment.
- ☐ Remain in your place of residence for a period of \_\_\_\_\_, except while working at verifiable employment, attending religious services or undergoing medical treatment.
- ☐ Not engage in any form of telemarketing, as defined in 18 USC 2325, without the written permission of the probation officer.
- ☐ Comply with the conditions of the Home Confinement Program for a period of \_\_\_\_\_ months and remain at your residence except for activities or employment as approved by the court or probation officer. Wear an electronic monitoring device and follow procedures specified by the probation officer. Pay the total cost of electronic monitoring services, or a portion if deemed appropriate by the probation officer.
- ☐ Participate in a program of drug or alcohol abuse treatment, including urinalysis testing and counseling, as directed by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.

08CR1261-LAB

AO 245S Judgment in Criminal Case  
Sheet 5 — Criminal Monetary Penalties

Judgment — Page 5 of 5

DEFENDANT: MARTIN OROSCO-IBARRA  
CASE NUMBER: 08CR1261-LAB

**FINE**

The defendant shall pay a fine in the amount of \$100.00 unto the United States of America.

This sum shall be paid        immediately.  
  x   as follows:

The defendant shall make payments to the Clerk, United States District Court for the Southern District of California, 880 Front Street, Suite 4290, San Diego, CA 92101 payable forthwith or through the Inmate Financial Responsibility Program during the period of incarceration, with the payments of \$25.00 per quarter any remaining balance to be made following the defendant's release from prison.

The Court has determined that the defendant does not have the ability to pay interest. It is ordered that:

  x   The interest requirement is waived.

       The interest is modified as follows:

08CR1261-LAB

MIME-Version:1.0  
From:efile\_information@casd.uscourts.gov  
To:casd.uscourts.gov  
Bcc:john\_ellis@fd.org, marylou\_belteton@fd.org, aaron.clark@usdoj.gov, Diana.Ortiz@usdoj.gov, efile.dkt.gc1@usdoj.gov, roseanna\_stovall@casd.uscourts.gov, efile\_Burns@casd.uscourts.gov  
Message-Id:<2699926@casd.uscourts.gov>  
Subject:Activity in Case 3:08-cr-01261-LAB USA v. Orosco-Ibarra Plea Entered  
Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.'

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 7/7/2008 at 3:35 PM PDT and filed on 7/7/2008

**Case Name:** USA v. Orosco-Ibarra

**Case Number:** 3:08-cr-1261

**Filer:**

**Document Number:** 23(No document attached)

**Docket Text:**

**Minute Entry for proceedings held before Judge Larry Alan Burns: Court accepts the plea taken before the Magistrate Judge as to defendant Martin Orosco-Ibarra (1). Sentencing held on 7/7/2008 for Martin Orosco-Ibarra (1). Count(s) 1s - Bureau of Prisons 24 months, supervised release 1 years, fine \$100.00, assessment \$100.00. Government's oral motion to dismiss underlying indictment - granted. (Court Reporter EVA OEMICK).(Plaintiff Attorney Stacey Sullivan).(Defendant Attorney John C. Ellis, FD). (tlw)**

**3:08-cr-1261-1 Notice has been electronically mailed to:**

John C Ellis, Jr john\_ellis@fd.org, marylou\_belteton@fd.org

Aaron B Clark aaron.clark@usdoj.gov, Diana.Ortiz@usdoj.gov, efile.dkt.gc1@usdoj.gov

**3:08-cr-1261-1 Notice has been delivered by other means to:**

MIME-Version:1.0

From:efile\_information@casd.uscourts.gov

To:casd.uscourts.gov

Bcc:casd\_ecf@fd.org, Efile.dkt.gc2@usdoj.gov, efile\_McCurine@casd.uscourts.gov

Message-Id:<2498293@casd.uscourts.gov>

Subject:Activity in Case 3:08-mj-00916-WMC USA v. Orosco-Ibarra Initial Appearance

Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 3/26/2008 at 8:43 AM PDT and filed on 3/25/2008

**Case Name:** USA v. Orosco-Ibarra

**Case Number:** 3:08-mj-916

**Filer:**

**Document Number:** 2(No document attached)

**Docket Text:**

Minute Entry for proceedings held before Judge William McCurine Jr.: Initial Appearance on complaint as to Martin Orosco-Ibarra held on 3/25/2008, Federal Defenders appointed for Martin Orosco-Ibarra. Bond set as to Martin Orosco-Ibarra (1) \$35,000 C/CS. Preliminary Hearing set for 4/8/2008 02:00 PM in Courtroom C before Magistrate Judge William McCurine Jr.. (Tape #WMC08-10:50-11:25).(Plaintiff Attorney Lara Stingley AUSA).(Defendant Attorney David Peterson FD S/A). (jmp)

**3:08-mj-916-1 Notice has been electronically mailed to:**

Federal Defenders casd\_ecf@fd.org

U S Attorney CR Efile.dkt.gc2@usdoj.gov

**3:08-mj-916-1 Notice has been delivered by other means to:**



## Notice of Appeal Notification Form

**To:** Clerk, U.S. Court of Appeals  
**From:** U.S. District Court, Southern District of California  
**Subject:** New Appeals Case Information & Docket Fee Notification

**Date:** 07/21/08

### Case Information

Case Title: United States of America v. Martin Orosco-Ibarra

U.S.D.C. No.: 08cr1261 LAB U.S.D.C. Judge: Larry Alan Burns

Complaint/Indictment/Petition Filed: Indictment

Appealed Order Entered: 07/10/08

Notice of Appeal Filed: 07/18/08

Court Reporter: Eva Oemick

COA Status: ☐ Granted in full/part (appeal only) ☐ Denied (send clerk's file)

### Docket Fee Notification

Docket Fee: ☐ Paid ☐ Not Paid ☒ No Fee Required

USA/GOVT. APPEAL: ☐ Yes ☒ No

Date F/P granted (Show Date and Attach Copy of Order): \_\_\_\_\_

Was F/P Status Revoked? ☐ Yes ☐ No

Companion Case(s): (Please list consolidated cases, if applicable) \_\_\_\_\_

### Counsel Information

#### Appellant Counsel:

John C. Ellis, Jr.  
Federal Defenders of San Diego  
225 Broadway  
Suite 900  
San Diego, CA 92101-5008  
(619)234-8467

#### Appellee Counsel:

Aaron B. Clark  
United States Attorney's Office  
880 Front Street  
Room 6293  
San Diego, CA 92101  
(619)557-6787

Counsel Status: ☐ Retained ☒ Appointed ☐ Pro Se

Appointed by: William McCurine, Jr.

(Attach copy of order/minutes)

**Defendant Information**Prisoner ID Number: 58400097

Bail: \_\_\_\_\_

Custody: x**SERVICE LIST**

**Counsel for Appellant(s) and Appellee(s), as listed on the previous page, have been sent copies of the following items:**

x	Transmittal of U.S.C.A. (Appellant and Appellee)
x	Case Information/Docketing Fee Notification Form. (Appellant Only)
x	Notice of Appeal. (Appellant, Appellee, U.S. District Judge, USPO, and Court Reporter)
x	Docket Entries (Appellant and Appellee)
x	Designation of Reporter's Transcript and Ordering Form. (Appellant Only, mailed separately)
x	Order for Time Schedule. (Criminal Only) (Appellant, Appellee, and Court Reporter)
	Magistrate Judge's Report and Recommendation
	COA Order
	F/P Order
	Minute Order
x	Other: Judgment, entered 07/10/08; Minute Entry re sentencing, entered 7/7/08; Minute Entry re Appointment of Counsel, entered 3/26/08

Form Completed And Documents Served By U.S. District Court Deputy Clerk:

Angela Rowland

Deputy's Name

A Rowland

Deputy's Signature

**UNITED STATES DISTRICT COURT**

Southern District Of California  
 Office Of The Clerk  
 880 Front Street, Room 4290  
 San Diego, California 92101-8900  
 Phone: (619) 557-5600  
 Fax: (619) 702-9900

W. Samuel Hamrick, Jr.  
 Clerk of Court

To: Clerk, U.S. Court of Appeals  
 P.O. Box 193939  
 San Francisco, CA 94119-3939

Re: **USCA No:**  
**USDC No: 08cr1261 LAB**  
**USA v. Orosco-Ibarra**

Clerk, U.S. Court of Appeals, enclosed herewith you will please find:

x	Copy of the Notice of Appeal	x	Docket Entries
x	Case Information/Docket Fee Payment Notification Form		
x	Order for Time Schedule (Criminal)		
	Original Clerk's Record in	set(s) of	volume(s).
	Reporter's transcript's transcripts in	set(s) of	volume(s).
	Exhibits in	envelope(s)	box(es) folders(s)
x	Judgement Order		F/P Order
	CJA Form 20		Minute Order
	Certificate of Record		Mandate Return
	Magistrate Judge's Report and Recommendation		
	COA Order		
	Amended docket fee notification form		
	Order Appointing Counsel for Appeal		
x	Minute Entry re sentencing, entered 7/7/08; Minute Entry re Appt of Counsel, entered 3/26/08		
x	Please acknowledge on the enclosed copy of this transmittal		

Sincerely yours,

W. Samuel Hamrick, Jr.  
 Clerk of Court

By: A Rowland  
 Angela Rowland, Deputy

Date: 07/21/08